

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.908 of 2018

Arising Out of PS. Case No.-181 Year-2014 Thana- LAURIA District- West Champaran

Sajaullah Ansari @ Sajayauallah Ansari, S/o Late Harun Ansari, Resident of
Village- Telpur Deoraj, P.S.- Lauriya, District- West Champaran.

... .. Appellant

Versus

1. The State of Bihar.
2. Sakir Miyan @ Manbodh, S/o Jalim Miyan, null
3. Jakir Miyan, S/o Late Jalim Miyan, null
4. Jalim Miyan, S/o Late Hakdar Miyan,
5. Saddam Miyan, S/o Sakir Mitran @ Manbodh, All resident of Village- Telpur Deoraj, P.S.- Lauriya, District- West Champaran.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Sanjeev Kumar
For the Respondent/s : Mr. Dilip Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

4 10-09-2018 Heard learned counsel appearing for appellant as well as learned Addl. Public Prosecutor for the State on the point of admission and I.A. No. 2224 of 2018, which has been filed under Section 378(3) of the Code of Criminal Procedure.

I.A. No. 2224 of 2018 stands disposed of giving liberty to appellant to pursue this appeal.

The appellant is father of the deceased and has challenged the Judgment dated 13.04.2018 passed in Sessions Trial No. 530 of 2015 by learned Sessions Judge, Bettiah, West



Champan on the ground that the learned trial Court instead of convicting the private respondent Nos. 2 to 5 for the offence punishable under Section 302, read with Section 149 of the Indian Penal Code, convicted them for the offence punishable under Section 304 Part-I read with Section 149 of the I.P.C. as well as under other Sections and sentenced them to undergo Rigorous Imprisonment for a term of 10 years and fine of Rs. 10,000/- (Ten thousand) each for the offence punishable under Section 304 Part-I, read with Section 149 of the Indian Penal Code and, furthermore, the private respondents were sentenced to undergo Rigorous Imprisonment for a term of two years for the offence punishable under Section 148 of the I.P.C.

Learned counsel appearing for appellant submits that learned trial Court committed error in not convicting the respondent Nos. 2 to 5 for the offence punishable under Section 302, read with Section 149 of the I.P.C., as all the prosecution witnesses have supported the prosecution case and stated that the deceased was killed by the private respondents in very brutal manner, but we are not, at all, convinced with the aforesaid submission of the learned counsel for the appellant, because, the perusal of the impugned Judgment goes to show that the learned court below noticed that the deceased had sustained only one



injury on his head and, accordingly, the learned Court below came to the conclusion that, at best, the offence under Section 304 Part-I, read with Section 149 of the Indian Penal Code could be proved against the private respondents No. 2 to 5. Therefore, we do not find any ground to interfere into the impugned Judgment dated 13.04.2018 and, accordingly, this appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

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